

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:18-cv-167-FDW**

MICHAEL ODELL FAIR,

Plaintiff,

vs.

JASON MUNDAY,

Defendant.

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ORDER

THIS MATTER is before the Court on periodic review of the record.

Pro se Plaintiff filed the instant Complaint pursuant to 42 U.S.C. § 1983 while he was a pretrial detainee against Lincolnton Police Department Detective Jason Munday. The Complaint passed initial review on December 3, 2018, and the Clerk of Court mailed Plaintiff a summons form that Plaintiff was instructed to fill out and return to the Court for service of process by the U.S. Marshals Service. (Doc. No. 6). A blank summons was mailed to Plaintiff for a second time with instructions to complete it and return it to the Court for service of process on December 18, 2018. Plaintiff filed a Notice of Temporary Change of Address to Central Prison that was docketed on January 16, 2019, and a blank summons was mailed to Plaintiff for a third time to Plaintiff at the Central Prison. The Court issued an Order on January 16, 2019, for Plaintiff to return the filled-out summons form for service of process or to show cause why he had failed to do so. (Doc. No. 8). He was cautioned that the failure to comply would result in dismissal and closure of this action without prejudice for failure to prosecute. (*Id.*).


The time to return a filled-out summons form or show cause why he has failed to do so has expired and Plaintiff has not responded. It appears that Plaintiff may have abandoned this action.

This action will be dismissed without prejudice for lack of prosecution and for failure to respond to the Court's December 3, 2018 and January 16, 2019 Orders.

IT IS, THEREFORE, ORDERED that:

- (1) This action is dismissed without prejudice for lack of prosecution and failure to respond to the Court's December 3, 2018 and January 16, 2019 Orders.
- (2) The Clerk of this Court is directed to terminate this action.

Signed: February 19, 2019


Frank D. Whitney
Chief United States District Judge

